

25320A

## REMARKS

This is further in response to the outstanding Office Action dated August 8, 2007 and in response to the Notice of Non-Compliant Amendment dated November 9, 2007. Applicants previously withdrew, without prejudice or disclaimer, Claims 1-14 and 19-22. The Claims now pending in the application are Claims 15-18 and 23-37. Applicants have amended Claims 15-16, and 23. Applicants have added new independent Claim 38. Applicants respectfully request withdrawal of the outstanding rejections and allowance of the claims.

In the outstanding Office Action, independent Claims 15, 16 and 23 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ingram (U.S. 3,084,059) in view of Kiik (U.S. 6,585,813).

Independent Claims 15, 16 and 23 have been amended to provide a structural limitation wherein the second portion of granules is a mixture of granules and anti-microorganism granules.

In the outstanding Office Action, the Examiner asserts that Ingram discloses all of the limitations of Applicants' independent Claims 15, 16 and 23 with the exception of applying a second portion of aggregates that are anti-microorganism granules.

However, the roofing shingle disclosed in Ingram does not disclose the method claimed in Applicants' amended independent Claims 15, 16 and 23.

Specifically, the Ingram reference does not disclose the steps of depositing a first and second portion of granules onto the asphalt coated sheet. Rather, the Ingram reference discloses a filler roofing material, consisting of a mixture of rock particles of varying sizes, applied to molten asphalt (Column 7, Lines 12-14). The filler roofing material can be a mixture of rock particles and can also be waste or by-product materials, such as ceramic scrap, tile scrap and furnace slag (Column 1, Lines 12-15). In the outstanding Office Action, the Examiner asserts the particles of Ingram read on the first portion of granules in Applicants' independent Claims 15, 16 and 23. However, Applicants assert that one skilled in the art would appreciate that the first portion of granules deposited on an asphalt coated sheet as claimed in Applicants' amended independent

Claims 15, 16 and 23, is structurally different than the filler roofing material used in the Ingram reference. The first portion of granules, as claimed Applicant's amended independent Claims 16, 16 and 23, perform multiple functions including protecting the underlying asphalt strip and providing an aesthetically pleasing roof appearance (Page 1, paragraph [0003]). Accordingly, the granules are applied to a shingle at regions which will ultimately be visible when the shingle is installed on a roof. Since the first portion of granules is visible on an installed shingle, the first portion of granules is commonly colored and of a generally uniform size. Granules of various colors are combined into blend drops to provide a desired appearance, such as for example a weathered wood appearance or a slate appearance. The required durability, size consistency and coloring of the first portion of granules result in granules that are relatively expensive compared to filler roofing material. Given the cost difference between the filler roofing material disclosed in Ingram and the first portion of granules claimed in Applicants' amended independent Claims 15, 16 and 23, no one skilled in the art would ever use the first portion of granules as filler roofing material.

In the outstanding Office Action, the Examiner notes that the Ingram reference does not disclose the step of applying a second portion of aggregates that are anti-microorganism granules. To overcome this deficiency, the Examiner relies on Kiik. The Examiner asserts that Kiik teaches surface covering asphaltic roofing shingles with anti-microbial copper or tin particles. The particles are applied such that they may enter part-way into the asphalt, but desirably remain on the surface so that they remain active.

However, assuming for a moment that the Ingram reference does disclose all of the limitations of Applicants' amended independent Claims 15, 16 and 23 with the exception of applying a second portion of aggregates that are anti-microorganism granules, the methods disclosed in the Kiik reference do not disclose the methods claimed in Applicants' amended independent Claims 15 and 23.

Specifically, the Kiik reference does not disclose a method in which a second portion of granules is dispensed over a first portion of granules, wherein the second portion of granules comprises a mixture of granules and anti-microorganism granules. Rather, in one embodiment of Kiik, one or more components having antimicrobial potential is applied to the surface of the surface covering building material by sprinkling or spraying the component(s) onto the surface while the filled asphalt portion of the roofing material is still hot [0031]. In another embodiment of Kiik, after the component(s) having antimicrobial potential is added to the surface of any portion of the material, granules may then be added to the surface [0035]. In this embodiment, the antimicrobial components may be pushed part-way through the surface of the material due to the weight of the later added granules and the force of the application as the later added granules are dropped onto the surface [0035]. In either embodiment of Kiik, the granules disposed onto the surface of the surface covering building material consist only of antimicrobial potential. There is simply no teaching or suggestion in Kiik of a method of dispensing a second portion of granules comprising a mixture of granules and anti-microorganism granules as claimed in Applicants' amended independent claims 15 and 23.

Even a combination of the Ingram and Kiik references, taken in a light most favorable to the Examiner, does not teach or disclose the invention as claimed in Applicants' amended independent claims 15, 16, and 23. A combination of the Ingram and Kiik references fails to teach or disclose a first portion of granules deposited onto asphalt coated sheet and a second portion of granules comprising a mixture of granules and anti-microorganism granules dispensed over the first portion of granules as claimed in Applicants' amended independent Claims 15, 16 and 23.

It is well established that all claim limitations must be taught or suggested. As set forth in the MPEP, at least at §2143.03, in order to establish *prima facie* obviousness of a claimed invention, all of the claimed limitations must be taught or suggested by the prior art, citing *In Re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). In this regard, Applicants' amended independent

25320A

Claims 15, 16 and 23, are non-obvious under 35 U.S.C. §103 in view of Ingram and Kiik. Therefore, the rejections of amended Claims 15, 16 and 23 are improper and the claims are patentable as written.

Dependent claims 24-30 depend on amended claim 15 and for at least this reason, are also patentable.

Dependent claims 17-18 and 31-37 depend on amended claim 16 and for at least this reason, are also patentable.

Applicants have added new independent Claim 38 to better define the invention. Support for the new independent Claim 38 can be found in the Specification in paragraphs [0003], [0007], [0015] and [0018].

In view of the above remarks, Applicants have shown that the amended claims are in proper form for allowance, and the invention, as defined in the amended claims, is not taught nor disclosed by the applied references. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejections of record, and allowance of all claims.